

REMARKS

Claims 1, 5, 6 and 11 are currently pending in this application. Claim 5 is amended herein. Claim 11 is cancelled herein without prejudice or disclaimer. Applicants respectfully reserve the right to prosecute the subject matter of the cancelled claim in one or more continuation or divisional applications. Upon consideration and entry of these remarks and amendment, claims 1, 5, and 6 will be pending in this application.

Allowable Subject Matter

Applicants note with appreciation the indication on page 2 of the Office Action that claims 1 and 6 are allowable.

Rejections

Rejections under 35 U.S.C. § 112, 2nd paragraph

Claim 5 was rejected under 35 U.S.C. § 112, 2nd paragraph, as allegedly indefinite in the recitation of the term derivatized. The Examiner kindly suggested remedial action. Applicants submit that the Examiner's rejection of these claims under 35 U.S.C. § 112, 2nd paragraph, has been rendered moot by way of the instant amendment to claim 5. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, 2nd paragraph.

Rejections under 35 U.S.C. § 102

Claim 5 was rejected under 35 U.S.C. § 102(b) as allegedly anticipated by the disclosure of Barney *et al.* (U.S. Patent No. 6,258,782) ("Barney"). More specifically, claim 5 was rejected for the inclusion of SEQ ID NO:12 in light of SEQ ID NO:1071 of Barney (cols. 547/548).

Applicants respectfully disagree and traverse this rejection.

As stated in MPEP § 2131, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”¹ Applicants submit that SEQ ID NO:1071 of Barney does not anticipate SEQ ID NO:12 of claim 5. SEQ ID NO:12 includes an “X” at the thirteenth position of the amino acid sequence. As stated in Figure 3 of the instant application (and reflected in the sequence listing), “X in the above formulae is a lysine residue derivatized with a maleimide linking moiety.” See Figure 3. Applicants review of Appendix A of the Office Action reveals that the “X” residue at the thirteenth position of SEQ ID NO:12 appears to have been designated as “... any amino acid” for purposes of the sequence search. While this designation for search purposes identified SEQ ID NO:1071 of Barney as relevant, the thirteenth amino acid position of SEQ ID NO:1071 of Barney is not a lysine residue derivatized with a maleimide linking moiety, nor an unmodified lysine residue. Therefore, Applicants submit that SEQ ID NO:1071 of Barney does not anticipate claim 5 of the instant application. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 5 under 35 U.S.C. § 102(b).

Rejections under 35 U.S.C. § 103

Claim 11 was rejected under 35 U.S.C. § 103(a) as allegedly obvious over Barney *et al.* (U.S. Patent No. 6,258,782) in view of Bridon *et al.* (2000). Applicants respectfully disagree and traverse this rejection. Nevertheless, in order to expedite prosecution and without acquiescing in the merits of this rejection, claim 11 is cancelled herein, thereby rendering this rejection moot. Applicants respectfully request reconsideration and withdrawal of this rejection.

¹ Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

CONCLUSION

An indication of allowance of all claims is respectfully solicited. Early notification of a favorable consideration is respectfully requested.

Respectfully submitted,

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